

IN BRIEF

FORCED MARRIAGES

A new consultation exercise has been launched to establish who should be able to ask the courts to take action to stop a forced marriage. The consultation paper is the first step to implementing the protections afforded by the Forced Marriage (Civil Protection) Act 2007 which was brought in last July to protect people forced into marriage—irrespective of age, background, gender, race or religion. Under the Act, courts have a wide discretion to deal sensitively with the circumstances of each case, employing civil remedies that offer protection to victims without criminalising members of their family. The consultation can be found at www.justice.gov.uk.

NEW RECRUITS

The Bar Standards Board (BSB) has appointed five new board members. The new recruits, who start work this week, are: Sue Carr QC, Paula Diggle, Professor Peter Hutton, Anthony Inglese, and Matthew Nicklin. Twenty-five new committee members have also been appointed including 14 barristers and 11 lay members. Members are expected to demonstrate an interest in and commitment to the integrity of the justice system and the public interest. Ruth Evans, BSB chairman, says: "The new appointees bring with them a wealth of expertise and knowledge that will be invaluable in guiding our work over the coming years."

EXTRA INCHES

The minimum leg room for passengers on planes should be increased by at least two inches to 28.2 inches, a report by a House of Lords' committee says. The report from the Science and Technology Committee claims the government was wrong to charge premium economy passengers the same airport air passenger duty departure tax as those in first class seats for long-haul flights. The committee calls for further research into possible links between contaminated-air incidents on planes and long-term ill-health and wants the Civil Aviation Authority to commission a study into the effects of fatigue on air crew.

Report on long trials released

Plans to make trials in complex cases shorter and more structured have been drawn up in a report by the Commercial Court's Long Trials Working Party.

The report, which has been adopted by the Commercial Court judges and the Committee of Users of the Commercial Court, outlines proposals to limit the length of statements of case and the early creation of a judicially settled list of issues. This will take case management precedence over statements of case and be used to set the parameters for

disclosure of documents and the content of witness statements and expert reports.

There are also proposals to encourage the greater use of summary judgment and striking out procedures in the Commercial Court and to limit the length of written and oral arguments at trial.

The working party, chaired by Mr Justice Richard Aikens, was set up following criticisms arising from the *BCCI/Bank of England* case and the *Equitable Life* case.

Aikens says: "Recent cases

have highlighted the need for the Commercial Court to look carefully at its procedures and large case management arrangements to ensure they remain up-to-date and relevant for the business community that we serve.

"Many of our proposals have been designed specifically to ensure that cases remain manageable not just for judges but also, critically, for clients who rightly feel that aspects of the process of heavy and complex litigation have become too expensive and drawn out."

Bar complaints-handling system faces overhaul

The complaints-handling regime against barristers looks set for a major overhaul following the launch of a consultation on the process by the Bar Standards Board (BSB).

Views are being sought on significant changes to the way complaints about barristers, and any subsequent disciplinary proceedings, are handled. These include the introduction of the concept of "improper behaviour" towards non-clients and a new process to

speed the disposal of cases where the barrister is prepared to agree to the outcome of a complaint.

Plans to extend the complaints commissioner's powers, to allow him to make recommendations for the disposal of complaints that do not require disciplinary action, are also outlined.

The consultation, *Complaints and Disciplinary Processes*, follows the publication last July of a strategic review by complaints commis-

sioner Rob Behrens, of the Bar's complaints and disciplinary processes, in which he said the current system was in need of significant improvement and made 52 recommendations for change.

Ruth Evans, BSB chairman, says: "The proposals are designed to ensure that the complaints and disciplinary system is fair and effective. The changes should improve the speed and efficiency of the system and, also, increase the confidence and satisfaction of consumers and barristers in the system."

The consultation paper can be downloaded at www.barstandards-board.org.uk.

Compliance club nets a century

Clifford Chance has become the 100th member of the Online Compliance Consortium (OCC), the group of law firms which produces online compliance training for the legal profession.

The group was founded in 2004 with 14 of the UK's leading law firms and has grown rapidly to encompass law firms from around the world. By pooling its members' resources, the OCC says it can cost effectively develop quality legal compliance training courses and training management software for its members.

Chris Andrews, director of risk management at Clifford Chance, says: "Regulatory compliance and risk management is of vital importance, and law firms and their staff need to be completely on

top of issues such as anti-money laundering. Our membership of the OCC will be important not only for us, but will help develop something of value to the legal sector as a whole."

Another recent OCC recruit is global firm Latham & Watkins. Philip Clifford, the firm's money laundering reporting officer in London, says the tailored online courses the OCC offers provide several advantages over more traditional, lecture-based, training methods.

Simon Young, solicitor and legal management/training consultant at Lawyers Compliance Ltd, says the co-operative idea is an excellent way of getting services and products tailored to the needs of the size and style of participating firms.

Questions raised over tendering plans

A consultation on the principles of best value tendering (BVT) for criminal defence services, and a policy paper—*Assuring and Improving Quality in the Reformed Legal Aid System*—have been published by the Legal Services Commission (LSC).

The paper considers three options for the provision of criminal legal aid services: to continue to set prices administratively; switch to a national public defender system; or move to BVT—the option the LSC favours.

Tendering would take place from January 2009 in Avon and Greater Manchester, followed by a further three phases from January 2010 to January 2011, the latter two of which would include crown court work.

Contracting in the first phase would cover police station and magistrates' court work. The two would be linked, possibly by having a single fee for any case of either type, or by asking firms

to bid against a matrix. The LSC proposes to consult on a single fee for crown court cases this year.

Carolyn Regan, LSC chief executive, says that moving to a competitive market for the majority of services is the right way forward.

"BVT would set sustainable prices and achieve the best possible value for the legal aid budget while ensuring quality advice for legal aid clients. This will benefit clients, reassure taxpayers and ensure that the market sets the price for providers' services," she says.

However, Law Society president Andrew Holroyd says several questions about how BVT could operate in the legal aid world remain unanswered in this consultation.

"The LSC must tell us, for example: how firms can tender when volume cannot be guaranteed; how solicitors can tender



Regan: competition fan

for multiple contracts to businesses that will be competing against each other; how the LSC will ensure that BME [black and minority ethnic] firms are treated equally and in a non-discriminatory manner; and, fundamentally, how firms can offer a rational bid when the government keeps changing the criminal justice system," he says.

"If the LSC cannot answer these questions but presses on with BVT, the society is concerned that the firms they need to provide the service will be driven out of legal aid and it will be impossible to rebuild the supplier base," he adds.

The BVT consultation runs until 3 March 2008.

Murder law consultation launched

The next step in the first comprehensive review of murder law for 50 years has been announced by the Ministry of Justice.

The government is seeking views on recommendations put forward by the Law Commission following the publication of its report, *Murder, Manslaughter and Infanticide*.

It will initially look at the commission's proposals for: reformed partial defences to murder of provocation and diminished responsibility; reformed offences of complicity in relation to homicide; and improved procedures for dealing with infanticide.

Specialists and key stakeholders from within and outside the criminal justice system are being asked for their views on the commission's

recommendations over several months. If changes to the law are considered necessary, draft clauses will be published for consultation in the summer, the government says.

Joy Merriam, chairman of the Criminal Lawyer Solicitors' Association (CLSA), says: "The CLSA has been keenly anticipating the opportunity for there to be a detailed review of the law of homicide. However, the association is still in the early stages of considering its response.

"We consider that justice is best served by ensuring that the facts are fully rehearsed before the court including all appropriate defences and the court in turn is able to have some flexibility in terms of sentence."

Justice minister Maria Eagle says: "Murder is the most serious crime and it is essential that the law reflects this. The government remains committed to retaining the mandatory life sentence and the sentencing principles for murder set out in the Criminal Justice Act 2003."

This stage of the review, Eagle says, will look at specific aspects of the operation of the law of murder to ensure that it protects the public and provides appropriate levels of punishment for those found guilty.

"The law needs to be clear and fair so that people have confidence in the criminal justice system. We want to have an open and inclusive debate on the issues before we bring forward firm proposals on how the law should be reformed," she adds.

IN BRIEF

TEACAKE TALES

UK tax authorities breached EU law when they refused to refund £3.5m of VAT paid incorrectly by Marks & Spencer (M&S) over 20 years, according to a preliminary opinion from advocate general Juliane Kokott. *Marks & Spencer plc v Revenue and Customs Commissioners* concerned the legality of the UK's three-year limitation period for recovering incorrectly paid VAT. A final judgment is expected from the European Court of Justice this year, and if it follows the opinion, says Andrew Loan, assistant solicitor at Macfarlanes, it could open the floodgates to claims for repayment of VAT incorrectly paid between 1973 and 2005.

IRAQ DETENTION

The UK government is responsible for its human rights abuses in Iraq and cannot pass the buck to the UN, the House of Lords has ruled. In *R (on the application of Al Jeddah) v Secretary of State for Defence* a 4:1 law lord majority said the UK government was responsible for detaining a UK/Iraqi national in Basra without trial, rejecting the government's contention that UK forces in post-conflict Iraq were acting under the authorisation of UN Security Council Resolution 1546—which permits internment of suspects in Iraq. The law lords held that the defendant's right to liberty under Art 5 of the European Convention on Human Rights was "qualified but not displaced" by the resolution.

DATA SHARING

A consultation into how personal information is used and shared in the public and private sectors has been launched by information commissioner Richard Thomas and Wellcome Trust director, Dr Mark Walport. The independent review will assess how personal information is used and shared by organisations across the public and private sectors and how data sharing policy should be developed to ensure proper transparency, scrutiny and accountability. They will report back to justice minister Jack Straw in the next few months. The consultation and the response form are available at www.justice.gov.uk.